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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,981	05/23/2001	Amanda Maria Elsome	JMYT-233US	3599
23122	7590	11/10/2003	EXAMINER	
RATNERPRESTIA			MADSEN, ROBERT A	
P O BOX 980			ART UNIT	
VALLEY FORGE, PA 19482-0980			PAPER NUMBER	

1761

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,981

Applicant(s)

ELSONE ET AL.

Examiner

Robert Madsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment filed August 7, 2003 has been entered. Claim 8 has been cancelled. Claims 1-7,9,10 remain pending.
2. The rejection of claims 1-7,9,10 made under both 35 U.S.C. 102(b) and 35 U.S.C 102 (e) in the Office Action mailed May 7, 2003 are hereby withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4,9,10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harris et al. (US 5599913). See Abstract, Column 3, lines 22-56, Column 7, lines 20-50, Example 9, especially Column 18 line 60 to Column 19, line 32.
5. Claims 1,4,5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Suto (US 5064576). Suto teaches the gaseous substance is steam and the sensor detects exposure to steam. See Column 1, lines 8 to 32. Column 1, line 60 to Column 2, line 25, Column 2, line 45 to Column 3, line 3, Column 3, lines 37-51, Column 4, lines 3-11.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7,9,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfbeis et al. (US 5407829) in view of Moretti et al. (1988) as evidenced by Dojindo Online.

8. Wolfbeis et al. teach a sensor for a method of detecting the quality of food products which includes metal coordinated complex with incorporated into in a film (e.g. item 13 of figure 2) as recited in claim 4, as part of a label retained inside a food package (item 3) as recited in claim 5, that releases a detectable component (i.e. change in color or fluorescence, as recited in claims 3 and 10, which is measured by an evaluation unit) when exposed to a gaseous substance, such as H₂S as recited in claims 1,2, and 9 (Column 1, lines 14-30, Column 2, lines 20-65, Column 3, lines 7-40, Column 3, lines 52 to Column 4, line 26, Examples). Although Wolfbeis et al. teach the sensors change their fluorescence in response to the sulfur containing gases, Wolfbeis et al. are silent in teaching they undergo a ligand exchange per se, as recited in claims 1 and 9, or a palladium-fluorexon complex as recited in claims 6 and 7.

9. Moretti et al. teach sensors comprising palladium-calcein complexes used to detect sulfur compounds in animals, wherein the sulfur binds with the palladium and the calcein is released providing a measurable change in fluorescence (page 459).

10. Calcein, as evidenced by Dojindo Online is synonymous with Fluorexon.
11. Therefore, it would have been obvious to modify Wolfbeis et al. and include a metal coordinated complex wherein the ligand is released when contacted with a sulfur compound as recited in claims 1 and 9, such as palladium-fluorexon as recited in claims 6 and 7, since one would have been substituting one conventional fluorescence sensor for another for the same purpose: detection of sulfur compounds by measuring a change in fluorescence.

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen 
Examiner
Art Unit 1761


MILTON I. CANO
SUPERVISORY PATENT EXAMINER
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